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What is a Development Agreement?

A Development Agreement is an agreement with local government that can secure regulations for your permit for a decade or more. Development Agreements are especially useful for larger phased projects over many years where the developer seeks to make sure that the rules will not change mid project.

Development Agreements (hereinafter “DA”) are governed by **RCW 36.70B.170**, which provides that DAs may be entered into by the local government with a real property owner. The project must be within the local government’s jurisdiction. A city may enter into a DA outside of its boundaries as part of a proposed annexation or service agreement.

The DA must have development standards included, from the very minimal to very complicated.

Development Standards include, but are not limited to, the following:

1. Project elements such as permitted uses, residential densities, nonresidential densities and intensities or building size
2. The amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of state law, any reimbursement provisions other financial contributions by the property owner, inspection fees, or dedications
3. Mitigation measures, development conditions, and other requirements under Chapter 43.21C RCW.
4. Specific design standards are expected in all DA’s, including:
 - a. Maximum Heights
 - b. Setbacks
 - c. Drainage and water quality requirements
 - d. Landscaping
 - e. Any other design standards or development features needed/wanted
5. Affordable housing
6. Parks and open space preservation

7. Phasing
8. Review procedures and standards for implementing decisions
9. A build-out or vesting period for applicable standards.

The execution of a DA is a proper exercise of county and city police power and contract authority. A DA may obligate a party to fund or provide services, infrastructure, or other facilities. A DA shall also reserve the authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

Development Agreements may bypass GMA's growth management hearing boards that might seek express jurisdiction over the development regulations.

Per RCW 36.70B.180 unless amended or terminated, a DA is enforceable during its term by any party to the DA. Development standards will govern the DA for as long as it is valid. A permit or approval issued by the county or city after the execution of the DA must be consistent with the development agreement.

The county or city can only approve a DA by ordinance or a resolution after a public hearing. If the DA relates a project permit application, the provisions of Chapter 36.70C RCW will apply. **RCW 36.70B.200**

The DA, once approved, is recorded in the county in which the project is located. **WAC 365-196-845**